

§ 561.202

31 CFR Ch. V (7–1–12 Edition)

(1) Impose strict conditions on the opening or maintaining of a correspondent account or a payable-through account for a particular foreign financial institution pursuant to paragraph (b) of this section;

(2) Prohibit the opening or maintaining of a correspondent account or a payable-through account for a particular foreign financial institution pursuant to paragraph (c) of this section;

(3) Prohibit the opening or maintaining of a correspondent account or a payable-through account for a particular foreign financial institution pursuant to § 561.203(a)(1) and (a)(2)(i); or

(4) Prohibit the opening of a correspondent account or a payable-through account and impose strict conditions on maintaining a preexisting correspondent account or a payable-through account for a particular foreign financial institution pursuant to § 561.203(a)(1) and (a)(2)(ii). Where applicable, the Part 561 List also will specify the strict condition or conditions to be imposed on the correspondent account or the payable-through account.

§ 561.202 Prohibitions on persons owned or controlled by U.S. financial institutions.

Except as otherwise authorized pursuant to this part, any person that is owned or controlled by a U.S. financial institution is prohibited from knowingly engaging in any transaction with or benefitting Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) ("IEEPA").

NOTE 1 TO § 561.202: The names of persons whose property and interests in property are blocked pursuant to IEEPA are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (the "SDN List"). The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Agents or affiliates of Iran's Islamic Revolutionary Guard Corps ("IRGC") whose property and interests in property are blocked pursuant to IEEPA are identified by a special reference to the "IRGC" at the end of their entries on the SDN List, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, an affiliate of the IRGC whose property and inter-

ests in property are blocked pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544, will have the tag "[NPWMD] [IRGC]" at the end of its entry on the SDN List. In addition, see § 561.405 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked.

NOTE 2 TO § 561.202: A U.S. financial institution is subject to the civil penalties provided for in section 206(b) of IEEPA if any person that it owns or controls violates the prohibition set forth in this section and the U.S. financial institution knew or should have known of such violation. See § 561.701(a)(2).

§ 561.203 NDAA-based sanctions on certain foreign financial institutions.

(a) *Imposition of sanctions.* Subject to the limitations, exceptions, and conditions set forth in paragraphs (d) through (h) of this section, upon a determination by the Secretary of the Treasury that a foreign financial institution has knowingly conducted or facilitated any significant financial transaction with the Central Bank of Iran or a designated Iranian financial institution, consistent with section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81), the Secretary of the Treasury:

(1) Will prohibit U.S. financial institutions from opening a correspondent account or a payable-through account in the United States for the foreign financial institution with respect to which the determination has been made; and either

(2)(i) Will prohibit U.S. financial institutions from maintaining a correspondent account or a payable-through account in the United States for the foreign financial institution with respect to which the determination has been made; or

(ii) Will impose one or more strict conditions on the maintaining of any correspondent account or payable-through account that had been opened in the United States for the foreign financial institution prior to the Secretary of the Treasury's determination with respect to the foreign financial institution.

NOTE 1 TO PARAGRAPH (a) OF § 561.203: The names of *designated Iranian financial institutions* are identified on the Specially Designated Nationals and Blocked Persons List

(the “SDN List”) on the Office of Foreign Assets Control’s Web site with the tag “[NDAA]” at the end of their entries, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. The SDN List is accessible through the following page on the Office of Foreign Assets Control’s Web site: www.treasury.gov/sdn.

NOTE 2 TO PARAGRAPH (a) OF § 561.203: The name of any foreign financial institution with respect to which a determination has been made pursuant to this paragraph (a), along with the relevant sanctions to be imposed (prohibition(s) and/or strict condition(s)), will be added to the List of Foreign Financial Institutions Subject to Part 561 (the “Part 561 List”), which is maintained on the Office of Foreign Assets Control’s Web site (www.treasury.gov/ofac) on the Iran Sanctions page, and published in the FEDERAL REGISTER.

(b) *Strict conditions.* The strict conditions that might be imposed on the maintaining of a pre-existing correspondent account or payable-through account for a foreign financial institution pursuant to paragraph (a)(2)(ii) of this section include, but are not limited to, the following:

(1) Prohibiting or restricting any provision of trade finance through the correspondent account or payable-through account of the foreign financial institution;

(2) Restricting the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution to certain types of transactions, such as personal remittances;

(3) Placing monetary limits on, or limiting the volume of, the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution;

(4) Requiring pre-approval from the U.S. financial institution for all transactions processed through the correspondent account or payable-through account of the foreign financial institution; or

(5) Prohibiting or restricting the processing of foreign exchange transactions through the correspondent account or payable-through account of the foreign financial institution.

(c) *Prohibitions.* (1) Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not

open a correspondent account or payable-through account in the United States for a foreign financial institution for which the opening of such an account is prohibited pursuant to paragraph (a)(1) of this section.

(2) Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not maintain a correspondent account or payable-through account in the United States for a foreign financial institution for which the maintaining of such an account is prohibited pursuant to paragraph (a)(2)(i) of this section.

(3) Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not maintain a correspondent account or payable-through account in the United States for a foreign financial institution in a manner that is inconsistent with any strict condition imposed and in effect pursuant to paragraph (a)(2)(ii) of this section.

(d) *Privately owned foreign financial institutions.* (1) Subject to the exceptions set forth in paragraphs (f) and (h) of this section, sanctions may be imposed pursuant to paragraph (a) of this section beginning on February 29, 2012, with respect to any significant financial transaction conducted or facilitated by a privately owned foreign financial institution that is not for the purchase of petroleum or petroleum products from Iran.

(2) Subject to the exceptions and conditions set forth in paragraphs (g) and (h) of this section, sanctions may be imposed pursuant to paragraph (a) of this section with respect to any significant financial transaction conducted or facilitated by a privately owned foreign financial institution on or after June 28, 2012, for the purchase of petroleum or petroleum products from Iran.

(e) *Government-owned or -controlled foreign financial institutions, including foreign central banks.* Subject to the exceptions and conditions set forth in paragraphs (g) and (h) of this section, sanctions may be imposed pursuant to paragraph (a) of this section on a foreign financial institution owned or controlled by the government of a foreign country, including a central bank of a foreign country, only insofar as it engages in a significant financial

§ 561.301

31 CFR Ch. V (7–1–12 Edition)

transaction on or after June 28, 2012, for the sale or purchase of petroleum or petroleum products to or from Iran.

(f) Sanctions will not be imposed under paragraph (a) of this section with respect to any foreign financial institution for conducting or facilitating a transaction for the sale of food, medicine, or medical devices to Iran.

(g) The Secretary of the Treasury may impose sanctions pursuant to paragraph (a) of this section with respect to any significant financial transaction conducted or facilitated by a foreign financial institution on or after June 28, 2012, for the purchase of petroleum or petroleum products from Iran only if the President determines, not later than March 30, 2012, and every 180 days thereafter, that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions. Such successive sufficiency determinations by the President shall render subject to sanctions under paragraph (a) of this section those financial transactions conducted or facilitated by a foreign financial institution for the purchase of petroleum or petroleum products from Iran during each successive 180-day period beginning 90 days after the President's determination.

NOTE TO PARAGRAPH (g) OF § 561.203: Under Section 1245(d)(4)(B) of the NDAA, the President is to make a determination, not later than March 30, 2012, and every 180 days thereafter, of whether the price and supply of petroleum and petroleum products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly in volume their purchases from Iran. This determination is to be based on reports on the availability and price of petroleum and petroleum products produced in countries other than Iran that, pursuant to section 1245(d)(4)(A) of the NDAA, the Administrator of the Energy Information Administration, in consultation with the Secretary of the Treasury, the Secretary of State, and the Director of National Intelligence, is to submit to Congress beginning not later than February 29, 2012, and every 60 days thereafter.

(h) Sanctions will not be imposed under paragraph (a) of this section on a

foreign financial institution if the Secretary of State determines and reports to Congress not later than 90 days after the date on which the President makes the initial determination referenced in paragraph (g) of this section, and every 180 days thereafter, that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran during the period prior to the initial determination, and during successive 180-day periods.

NOTE TO § 561.203: The sanctions regime described in § 561.203 is separate from the sanctions regime described in § 561.201 and applies in addition to, and independently of, the sanctions regime imposed under § 561.201.

Subpart C—General Definitions

§ 561.301 Effective date.

(a) The effective date of a prohibition or condition imposed pursuant to § 561.201 or § 561.203 on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition or condition.

(b) The effective date of the prohibition contained in § 561.202 with respect to Iran's Islamic Revolutionary Guard Corps and any of its agents or affiliates whose property and interests in property are blocked as of August 16, 2010, is August 16, 2010.

(c) The effective date of the prohibition contained in § 561.202 with respect to an agent or affiliate of Iran's Islamic Revolutionary Guard Corps whose property and interests in property become blocked after August 16, 2010, is the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 561.302 UNSC Resolution 1737.

The term *UNSC Resolution 1737* means United Nations Security Council Resolution 1737, adopted December 23, 2006.